



BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

A-570-888

Floor-Standing, Metal-Top Ironing Tables and Certain Parts Thereof from the People's Republic of China: Notice of Court Decision Not in Harmony With Final Results and Notice of Amended Final Results of the Antidumping Duty Administrative Review; 2009-2010

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce

SUMMARY: On April 6, 2016, the United States Court of International Trade (the Court or the CIT) issued final judgment in *Foshan Shunde Yongjian Housewares & Hardware Co., Ltd. v. United States*, Court No. 12-00069, sustaining the Department of Commerce's (the Department) final results of the second redetermination pursuant to remand.¹ Consistent with the decision of the United States Court of Appeals for the Federal Circuit (Federal Circuit) in *Timken Co. v. United States*, 893 F.2d 337 (Fed. Cir. 1990) (*Timken*), as clarified by *Diamond Sawblades Mfrs. Coalition v. United States*, 626 F.3d 1374 (Fed. Cir. 2010) (*Diamond Sawblades*), the Department is notifying the public that the final judgment in this case is not in harmony with the Department's final results of the antidumping duty administrative review of floor-standing, metal top ironing tables and certain parts thereof from the People's Republic of China covering the period August 1, 2009, through July 31, 2010, and is amending the final results with respect to

¹ See Final Results of Redetermination Pursuant to Court Remand, Floor Standing Metal Top Ironing Tables and Certain Parts Thereof from the People's Republic of China, *Foshan Shunde Yongjian Housewares & Hardware Co., Ltd. v. United States*, Court No. 12-00069, Slip Op. 16-01 (CIT January 8, 2016), dated March 29, 2016 (Second Redetermination), available at <http://enforcement.trade.gov/remands/index.htm>.

the weighted-average dumping margin assigned to Foshan Shunde Yongjian Housewares & Hardwares Co., Ltd. (Foshan Shunde).²

DATE: Effective April 18, 2016

FOR FURTHER INFORMATION CONTACT: Michael J. Heaney or Robert James, AD/CVD Operations, Office VI, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-4475 or (202) 482-0649, respectively.

SUPPLEMENTARY INFORMATION:

Background

On March 12, 2012, the Department published its *Final Results*.³ On March 22, 2012, Foshan Shunde, an exporter of the subject merchandise, timely filed a complaint with the Court to challenge certain aspects of the *Final Results*. The litigation history of this procedure is outlined below.

On February 22, 2013, the Court remanded the matter.⁴ The case was stayed pending the Court's final disposition on brokerage and handling in *Since Hardware v. United States*, Court No. 11-00106. The Court also stayed ruling on zeroing, pending the outcome of the Federal Circuit case, *Union Steel v. United States*. After the Federal Circuit issued its decision in *Union Steel*,⁵ on August 22, 2013, the Court continued the stay pending its ruling of similar issues in *Since Hardware v. United States*, Court No. 11-00106. On December 30, 2014, the Court issued

² See *Floor-Standing Metal-Top Ironing Tables and Certain Parts Thereof From the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 77 FR 14499 (March 12, 2012), and accompanying Issues and Decision Memorandum (*Final Results*).

³ *Id.*

⁴ See *Foshan Shunde Yongjian Housewares & Hardwares Co., Ltd. v. United States*, 896 F. Supp. 2d 1313 (February 22, 2013) (*Foshan Shunde I*).

⁵ See *Union Steel v. United States*, 713 F.3d 1101 (Fed. Cir. 2013).

its decision in *Since Hardware v. United States*,⁶ thereby lifting the stay in this case.

Accordingly, on April 9, 2015, the Department issued its *First Redetermination*, in which it: 1) determined to use the Indonesian “basket” category 7217.10 to value steel wire, 2) determined to use the brokerage and handling (B&H) calculation outlined in the *Final Results*, and 3) continued to apply the zeroing methodology utilized in the *Final Results*.⁷

Upon consideration of the *First Redetermination*, on January 8, 2016, the Court sustained: 1) the use of World Bank data to derive brokerage and handling expenses, and (2) the application of zeroing.⁸ The Court, however, remanded the case to the Department to reconsider its adjustment of brokerage and handling based upon container size. Additionally, the Court directed the Department to use Indonesian HTS value 7217.10.00 to value Foshan Shunde’s steel wire input.⁹

On March 29, 2016, we issued the *Second Redetermination*, where we used the Indonesian HTS value 7217.10.00, and did not adjust the ports and terminal handling fee and document preparation fee based upon container size.¹⁰

On April 6, 2016, the Court sustained the *Second Redetermination*, and entered final judgment.¹¹

Timken Notice

In its decision in *Timken*, 893 F.2d at 341, as clarified by *Diamond Sawblades*, the Federal Circuit has held that, pursuant to section 516A(e) of the Tariff Act of 1930, as amended

⁶ See *Since Hardware v. United States*, 37 F. Supp. 3d 1354, 1365 (CIT 2014).

⁷ See Final Results of Redetermination Pursuant to Court Remand Floor Standing Metal-Top Ironing Tables and Certain Parts Thereof from the People’s Republic of China, dated April 9, 2015 (*First Redetermination*).

⁸ See *Foshan Shunde Yongjian Housewares & Hardware Co., Ltd. v. United States*, Court No. 12-00069, Slip Op. 16-01 (January 8, 2016) (*Foshan Shunde II*).

⁹ *Id.*

¹⁰ See Final Results of Redetermination Pursuant to Court Remand Floor Standing Metal-Top Ironing Tables and Certain Parts Thereof from the People’s Republic of China, dated March 29, 2016 (*Second Redetermination*).

¹¹ See *Foshan Shunde Yongjian Housewares & Hardware Co., Ltd., v. United States*, Court No. 12-0006, Slip Op. 16-34 (April 6, 2016).

(the Act), the Department must publish a notice of a court decision not “in harmony” with a Department determination, and must suspend liquidation of entries pending a “conclusive” court decision. The Court’s April 6, 2016, judgment sustaining the *Second Redetermination* constitutes a final decision of the Court that is not in harmony with the Department’s *Final Results*. This notice is published in fulfillment of the publication requirement of *Timken*. Accordingly, the Department will continue the suspension of liquidation of the subject merchandise pending the expiration of the period of appeal or, if appealed, pending a final and conclusive court decision.

Amended Final Results

Because there is now a final court decision, the Department amends the *Final Results* with respect to the dumping margin of Foshan Shunde. The revised weighted-average dumping margin for Foshan Shunde during the period August 1, 2009, through July 31, 2010, is as follows:

Exporter	Weighted Average Dumping Margin (Percent)
Foshan Shunde Yongjian Housewares & Hardwares Co., Ltd.	33.43 percent

For Foshan Shunde, the cash deposit rate will remain the rate established in the *2010-2011 Final Results*, a subsequent review, which is 157.68 percent.¹²

In the event the Court’s ruling is not appealed, or if appealed and upheld by the Federal Circuit, the Department will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties on entries of the subject merchandise exported by Foshan Shunde using the revised assessment rate calculated by the Department in the *Second Redetermination*.

¹² See *Floor Standing Metal-Top Ironing Tables and Certain Parts Thereof From the People’s Republic of China: Final Results of Antidumping Duty Administrative Review* 77 FR 55806 (September 11, 2012) (*2010-2011 Final Results*).

This notice is issued and published in accordance with sections 516(A)(e), 751(a)(1), and 777(i)(1) of the Act.

Paul Piquado
Assistant Secretary
for Enforcement & Compliance

May 13, 2016_
Date

[FR Doc. 2016-12003 Filed: 5/19/2016 8:45 am; Publication Date: 5/20/2016]